

Comment from Government Member Patrick R. Nagle on *Virtual Hearings in Agency Adjudication*
May 12, 2021

SSA appreciates the opportunity to review the draft recommendations on Virtual Hearings and the opportunity to attend your several committee working sessions. Overall, SSA believes that your draft recommendations reflect our experience with “virtual hearings” in our Office of Hearings Operations (OHO) disability hearings process which have taken place during the COVID-19 pandemic. Prior to the pandemic, as your report reflects, we conducted hearings by a variety of means including, typically, in-person in one of our over 150 nationwide hearing offices or via traditional video-teleconference (VTC). Given that we serve hundreds of thousands of claimants for disability benefits annually, many of whom are in dire need of assistance, we had to maintain service channels for disability adjudication hearings during the pandemic. We conducted hundreds of thousands of hearings via telephone throughout 2020 and 2021, and in late 2020 began offering virtual online video hearings (OVH) as an alternate service channel via the free and secure MS Teams platform.

The majority of the public we serve in the disability adjudication process are from underserved communities—as such, we are quite sensitive to meeting their needs via a variety of service channel options. SSA acknowledges ACUS’ discussion, beginning at line 54 that “virtual hearings may create a barrier to access for some individuals...” However, there doesn’t appear to be a counter-point discussion in the draft report noting that virtual hearings could provide new service channels and opportunities for federal agencies to reach underserved communities. For example, in our disability adjudication hearings process, many times claimants from rural parts of the country will have to travel several hours for an in-person hearing (pre-COVID)—if such persons have access to an internet enabled device, they can interact with one of our ALJs and conduct a hearing from their home or a location of their choice. Additionally, as we serve many people with debilitating physical and/or mental disabilities, we know that attending a hearing in a physical government office (be it in-person, or traditional VTC) can be an overwhelming experience for some people. Again, virtual hearings can allow members of these communities to attend a hearing from their home or other location of their choosing, in a setting that may be less stressful and overwhelming.

As we see parts of the country re-opening at this point in the pandemic, SSA hopes to creatively build and leverage relationships with other local public and private organizations who provide assistance to underserved communities who can potentially provide access to internet connections and internet-enabled devices in their community-based locations for claimants to utilize for OVH hearings.

None of these observations are unaligned with your draft report and recommendations—again, we just wanted to note that in addition to virtual hearings being a barrier for some underserved communities, virtual hearings also provide an opportunity to interact with the government in a professional, convenient, and relatively low-cost manner for members of the public facing challenges and difficulties. We look forward to your final report and recommendations on this exciting and timely development in adjudications.

Thanks,

PRN